

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAROL KULIG ) No. Civ 1:13-cv-04715-PKC  
*on behalf of herself and all others similarly situated*)  
Plaintiff )  
 )  
-v.- )  
MIDLAND FUNDING, LLC, )  
MIDLAND CREDIT MANAGEMENT, INC. )  
ENCORE CAPITAL GROUP, INC. )  
formerly MCM CAPITAL GROUP, INC.)  
AMANDA PEREZ )  
Defendants )  
-----x

**PLAINTIFF'S SUPPLEMENTAL AUTHORITY  
IN OPPOSITION TO DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO  
COMPEL ARBITRATION AND TO STAY TRIAL COURT PROCEEDINGS [DE 16]**

Plaintiff respectfully seeks to supplement her briefing in opposition the Defendants' Motion to Compel Arbitration [DE 16] with a New York District Court decision rendered just days before Plaintiff's submission. In *Hallmark v. Cohen & Slamowitz, LLP*, 11-CV-842S, 2013 --- F.R.D. ----, WL 5178128 at \* 4 (W.D.N.Y. Sept. 16, 2013), the Court denied Defendants' motion for judgment on the pleadings in an FDCPA class action, holding that the debt collector Defendants had not provided sufficient evidence to authenticate the purported cardholder agreement.<sup>1</sup>

Plaintiff submits this supplemental authority prior to the deadline for Defendants to serve a Reply so that they can respond to the same.

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<sup>1</sup> "Finally, Defendants' proof is cursory. Defendants provided what appears to be only a portion (and a partially inverted portion at that) of the "HSBC Select Credit Agreement," which purports to grant them the authority to collect court costs. But there is no indication that this was signed or otherwise executed by Hallmark. And Defendants have supplied no affidavit from anyone associated with HSBC Bank Nevada, N.A., the entity that originally issued the credit card and presumably drafted the agreement, to authenticate it. There are, accordingly, serious questions about its authenticity that have not been addressed by Defendants. " *Id.*

Respectfully submitted,

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on this, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

MIDLAND FUNDING, LLC;  
MIDLAND CREDIT MANAGEMENT, INC;  
ENCORE CAPITAL GROUP, INC; and  
AMANDA PEREZ  
By and through their attorneys of record  
Charles P. Greenman;  
Kevin P. Wallace;  
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The Chrysler Building  
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Date: Brooklyn, NY  
October 7, 2013  
/s/  
Ahmad Keshavarz  
Attorney for Plaintiff